

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3354 of 1988

WITH

SPECIAL CIVIL APPLICATIONS NOS.3355 TO 3361 OF 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

PATEL VIJAYBHAI RAVJIBHAI & OTHERS

Versus

STATE OF GUJARAT

Appearance:

Kum. V.P.Shah, Advocate, for the Petitioner (in all matters).

Shri M.R.Anand, Government Pleader (Senior Counsel) with Shri T.H.Sompura, Assistant Government Pleader, for Respondents Nos.1 and 2 (in all matters).

Respondent No.3 is served (in all matters).

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 04/04/96

ORAL JUDGEMENT

The identical orders passed by the Additional Chief Secretary, Revenue Department (Appeals), Ahmedabad on behalf of the State Government (respondent No.1 herein) on 5th April 1988 in exercise of its revisional powers under section 211 of the Bombay Land Revenue Code, 1879 (the Code for brief) are under challenge in all these petitions under Article 227 of the Constitution of India. Thereby the N.A.Permission granted by the Taluka Development Officer (respondent No.2 herein) by his orders passed under section 65 of the Code with respect to the subject-matter of these petitions some time in 1981 is cancelled.

2. The facts giving rise to these petitions move in a narrow compass. Respondent No.2 twice granted what is popularly known as the N.A.Permission under section 65 of the Code with respect to the subject-matters of these petitions. A copy of the order granting the first N.A.Permission is at Annexure-D to each petition and that of the second N.A.Permission is at Annexure-F to each petition. It appears that both these orders granting the N.A.Permission by respondent No.2 came to the notice of the concerned officer of respondent No.1 herein. He appears to have found them not according to law. Their suo motu revision under section 211 of the Code was contemplated. Thereupon, a show cause notice came to be issued in April 1983 calling upon the beneficiary of the orders at Annexures-D and F to each petition to show cause why the said orders should not be revised. It appears that the said show cause notice was challenged before this court by means of a writ petition bearing Special Civil Application No.3257 of 1983. By the judgment delivered by this court on 16th June 1987 in the aforesaid writ petition, it came to be rejected on the ground that it was only at the stage of the show cause notice and similar matters were remanded to respondent No.1 by the decision of this court in Special Civil Application No.4530 of 1983 and allied matters decided on that very day, that is, on 16th June 1987. A copy the aforesaid judgment of this court in Special Civil Application No.3257 of 1983 decided on 16th June 1987 is at Annexure-G to each petition. It appears that the petitioner in each petition filed his reply to the show cause notice on 6th July 1987. Its copy is at Annexure-H to each petition. It appears that each petitioner was served with a separate show cause notice on 21st December 1987 calling upon them to show cause why the aforesaid orders at Annexures-D and F to each petition should not be revised. Its copy is at Annexure-I to each petition. Thereafter, by the order passed by and on behalf of respondent No.1 on 5th April 1988, the orders at

Annexures-D and F to each petition came to be cancelled. Its copy is at Annexure-J to each petition. That aggrieved each petitioner. Each one has therefore approached this court by means of his respective petition questioning the correctness of the order passed by and on behalf of respondent No.1 at annexure-J to each petition.

3. The factual position involved in each of these petitions is similar to, if not altogether identical with, those in the group of matters bearing Special Civil Applications Nos.3886 of 1990 to 3921 of 1990 decided on 20th March 1996. These petitions raise the very same questions of law in the light of similar fact-situations. For the reasons recorded in the aforesaid ruling of this court in Special Civil Applications Nos.3886 of 1990 to 3921 of 1990 decided on 20th March 1996, all these petitions deserve to be accepted and the reliefs claimed therein deserve to be granted.

4. In the result, each petition is accepted. The order passed by and on behalf of the State of Gujarat (respondent No.1 herein) on 5th April 1988 at Annexure-J to each petition is quashed and set aside and the orders at Annexures-D and F to each petition is restored. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

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